

AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 23, 2003
AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1690

Introduced by Assembly Member Leno
(Principal coauthor: Assembly Member Lieber)
(Coauthors: Assembly Members Bermudez, Calderon, Chavez,
Goldberg, Koretz, Laird, Montanez, Nation, Pavley, Steinberg,
~~Vargas, and Wiggins~~ Vargas, Wiggins, and Yee)
(Coauthor: Senator Burton)

February 21, 2003

An act to add Article 4 (commencing with Section 55650) to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, and to ~~amend Section 17041.5 of, and to add Section 99.3 to, the Revenue and~~ *amend Sections 17041.5 and 19533 of, to add Section 99.3 to, and to add Part 10.1 (commencing with Section 18201) to, the Revenue and* Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1690, as amended, Leno. Public safety finance agencies.

Under existing law, local fire protection services may be provided by, among other entities, a fire protection district, which may comprise territory including cities or counties, by a fire department or company organized in an unincorporated town, or by a fire department established by a city or county.

This bill would authorize any city, county, or city and county to form a public safety finance agency for the purposes of supplementing fire protection or police or sheriff services, and financing needed capital improvements for its fire or police or sheriff's department or for any other public agency that provides fire protection or police or sheriff services within its boundaries.

Existing law provides that, with the exception of a business license tax, a city, county, city and county, or any other local entity may not impose or collect a local income tax.

This bill would authorize any city, county, or city and county that forms a public safety finance agency to levy a local general income tax, if that tax is approved by a majority of the voters voting on that tax. ~~This bill would also require that any action to claim a refund of such a tax be brought within 90 days after the tax is first paid by the taxpayer bringing the refund action.~~ *This bill would require the Franchise Tax Board (FTB) to administer and collect these local income taxes and require the board to transmit the revenues derived from these taxes within 60 days of collection. This bill would also authorize the FTB to deduct its costs in collecting the tax prior to transmitting the revenues to the imposing local entity.*

This bill would also require, in the case of a local government that has both formed a public safety finance agency and adopted a local income tax, that property tax revenue be annually assigned to the public safety finance agency, from the forming local government, in an amount that is equal to 50% of the amount of revenues estimated to be collected from the local income tax in the first 12 months of imposition. This bill would also require the governing board of a public safety finance agency to annually allocate these revenues according to a specified formula. By imposing new revenue allocation duties upon local officials, this bill would impose a state-mandated local program. This bill would also provide that if any provision of the bill, or any properly proposed ordinance enacted pursuant to the act, is invalidated by an appellate court, then the remaining provisions of the bill shall become inoperative.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 55650) is added to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, to read:

Article 4. Public Safety Finance Agency

55650. (a) Any city, county, or city and county may form, by ordinance, a public safety finance agency for the following purposes:

(1) To supplement fire protection services and finance needed capital improvements for its fire department or other outside agency that provides structural fire protection services within the boundaries of that city, county, or city and county.

(2) To supplement police or sheriff services and finance needed capital improvements for its police or sheriff's department or other outside agency that provides police or sheriff services within the boundaries of that city, county, or city and county.

(b) In the case of a city, county, or city and county that does not directly provide either its own fire protection services or its own police or sheriff services, or both, that portion of the funds of the public safety protection agency that are available for the category of services not directly provided may be made available only to the outside agency that directly provides that same category of services within the boundaries of the city, county, or city and county.

(c) When a decision, determination, or other action by the public safety finance agency formed pursuant to this section is required by this article, the governing body of that agency may not

1 delegate the obligation to decide, determine, or act to another
2 entity, unless this article specifically provides for that delegation.

3 (d) A public safety finance agency formed pursuant to this
4 section may, in addition to any funds provided by the city, county,
5 or city and county that formed that agency, accept financial
6 assistance from the state or federal government or any public or
7 private source for any purpose set forth in subdivision (a).

8 (e) All funds of a public safety finance agency formed pursuant
9 to this section shall be held in trust for the purposes set forth in
10 subdivision (a) and may not be utilized to supplant other funds
11 applied to fire protection or police or sheriff services.

12 SEC. 2. Section 99.3 is added to the Revenue and Taxation
13 Code, to read:

14 99.3. For the purposes of the computations required by this
15 chapter:

16 (a) If a public safety finance agency is formed by a city, county,
17 or city and county ordinance pursuant to Section 55650 of the
18 Government Code and is located within a city, county, or city and
19 county for which an income tax authorized by ~~subdivision (b) of~~
20 ~~Section 17041.5 Part 10.1 (commencing with Section 18201)~~ has
21 been approved by the voters, the auditor shall assign to that public
22 safety finance agency that portion of the annual property tax
23 revenue allocation determined pursuant to Section 96 or
24 subdivision (a) of Section 96.1 for that city, county, or city and
25 county in an amount equal to 50 percent of the amount estimated
26 by the Franchise Tax Board pursuant to subdivision (c) to be
27 collected on behalf of the city, county, or city and county during
28 the first 12 months in which the income tax is imposed. In each
29 fiscal year that follows a fiscal year in which an assignment of ad
30 valorem property tax revenues is made pursuant to this
31 subdivision, ad valorem property tax revenue allocations made
32 pursuant to Sections 96.1 and 96.5 shall fully reflect the allocation
33 adjustments required by that assignment. In each fiscal year, the
34 governing board of a public safety finance agency shall allocate
35 the property tax revenues it receives under this subdivision
36 according to the following:

37 (1) Forty percent for the purposes described in paragraph (1) of
38 subdivision (a) of Section 55650 of the Government Code.

39 (2) Forty percent for the purposes described in paragraph (2) of
40 subdivision (a) of Section 55650 of the Government Code.

(3) Twenty percent for the purposes specified in subdivision (a) of Section 55650 of the Government Code as specified in a written agreement between the following parties:

(A) The chief fire official that directly provides public safety services in the city, county, or city and county that formed the public safety finance agency.

(B) As applicable, the sheriff or police chief that directly provides public safety services in the city, county, or city and county that formed the public safety finance agency.

(b) Upon the approval of an income tax authorized by ~~subdivision (b) of Section 17041.5~~ *Part 10.1 (commencing with Section 18201)*, the imposing city, county, or city and county shall give notice of that approval to the Franchise Tax Board, and to the assessor and auditor of the county within which the territory subject to the public safety finance agency is located. This notice shall specify the city, county, or city and county that has approved the imposition of the income tax.

(c) The Franchise Tax Board shall, within 60 days of notice of the approval of the tax authorized by ~~subdivision (b) of Section 17041.5~~ *Part 10.1 (commencing with Section 18201)*, estimate, based upon historical data on state income tax collections for residents of that city, county, or city and county, the amount of tax to be collected on behalf of the city, county, or city and county in the first 12 months in which that tax is imposed. The Franchise Tax Board shall notify the county auditor of its estimate.

(d) (1) The county assessor shall provide to the county auditor, within 30 days of the notice of approval of an income tax authorized by ~~subdivision (b) of Section 17041.5~~ *Part 10.1 (commencing with Section 18201)*, a report that identifies the assessed valuations for the tax rate areas within the jurisdiction of the public safety finance agency.

(2) The auditor shall estimate the amount of property tax revenue derived from the tax rate areas that are within the jurisdiction of the public safety finance agency.

(3) The auditor shall estimate that portion of the property tax revenue determined pursuant to paragraph (2) that is to be assigned to the public safety finance agency pursuant to subdivision (a).

(4) The auditor shall, within 45 days of receipt of the notice under subdivision (c), notify the governing body of the city,

1 county, or city and county that formed the public safety finance
2 agency of the assignment to be made pursuant to subdivision (a).

3 SEC. 3. Section 17041.5 of the Revenue and Taxation Code
4 is amended to read:

5 17041.5. ~~(a)~~ Except as provided in ~~subdivision (b)~~ *Part 10.1*
6 *(commencing with Section 18201)*, notwithstanding any statute,
7 ordinance, regulation, rule or decision to the contrary, no city,
8 county, city and county, governmental subdivision, district, public
9 and quasi-public corporation, municipal corporation, whether
10 incorporated or not or whether chartered or not, shall levy or
11 collect or cause to be levied or collected any tax upon the income,
12 or any part thereof, of any person, resident or nonresident.

13 ~~(b)~~

14 SEC. 4. *Part 10.1 (commencing with Section 18201) is added*
15 *to the Revenue and Taxation Code, to read:*

16
17 *PART 10.1. LOCAL INCOME TAX*
18

19 18201. (a) (1) Any city, county, or city and county that has
20 formed a public safety finance agency by ordinance pursuant to
21 Section 55650 of the Government Code may levy a general tax
22 upon the taxable income of ~~any person residing therein~~ *individual*
23 *who is a resident of the city, county, or city and county* for each
24 taxable year beginning on or after January 1, 2004. The tax may
25 not exceed an amount equal to the net tax ~~imposed under~~ *defined*
26 *in Section 17039 multiplied by:*

27 (A) Eight percent with respect to a tax levied by a city.

28 (B) Two percent with respect to a tax levied by a county.

29 (C) Ten percent with respect to a tax levied by a city and county.

30 (2) Any ordinance adopted by a city, county, or city and county
31 for the purpose of levying a tax on income shall be subject to
32 approval by a majority of the voters voting on that issue at an
33 election.

34 ~~(3) A tax imposed under this subdivision shall be administered~~
35 ~~and collected by the board, in the same manner as taxes are~~
36 ~~administered and collected pursuant to Part 10.5 (commencing~~
37 ~~with Section 18401).~~

38 ~~(4) The board shall remit the taxes collected, less the board's~~
39 ~~costs of administration, within 60 days after those revenues are~~
40 ~~reported and collected.~~

~~(e)~~

(b) This section may not be construed so as to prohibit the levy or collection of any otherwise authorized license tax upon a business measured by or according to gross receipts.

~~(d) Any action to claim a refund of any tax paid pursuant to an ordinance that is enacted pursuant to this section shall be brought on or before 90 days after the day that the tax is first paid by the taxpayer that brings the action.~~

SEC. 4.—

18202. A local tax imposed under this part shall be administered in the same manner as a tax imposed under Part 10 (commencing with Section 17001). Part 10.2 (commencing with Section 18401) shall apply to any tax imposed under this part in the same manner and with the same force and effect and to the full extent as if the language of that part has been incorporated in full into this part, except to the extent that any provision is inconsistent with this part or is not relevant to this part.

18203. For purposes of this part, the term “resident” has the same meaning as under Section 17014, modified by substituting “the city,” “the county,” or “the city and county,” as applicable, in lieu of “this state.”

18204. (a) The Franchise Tax Board shall revise the personal income tax returns required to be filed pursuant to Part 10.2 (commencing with Section 18401) to allow an individual to report and pay a local income tax in accordance with this part. The returns shall require the taxpayer to include the individual’s city and county of residence.

(b) Subdivision (a) does not apply with respect to returns for any taxable year beginning on or after January 1 of a calendar year unless the Franchise Tax Board receives notice of approval of a local income tax, as required by Section 99.3, by June 1 of that calendar year.

18205. The board shall transmit local income tax revenues collected pursuant to this part, net of refunds and net of an amount equal to the costs incurred by the Franchise Tax Board in implementing and administering the tax authorized in this part and related statutes as added or amended by the act adding this part, to the city, the county, or the city and county to which the amount due is owing on or before 60 days after collecting the tax.

1 *SEC. 5. Section 19533 of the Revenue and Taxation Code is*
2 *amended to read:*

3 19533. In the event the debtor has more than one debt being
4 collected by the Franchise Tax Board and the amount collected by
5 the Franchise Tax Board is insufficient to satisfy the total amount
6 owing, the amount collected shall be applied in the following
7 priority:

8 (a) Payment of any delinquencies transferred for collection
9 under Article 5 (commencing with Section 19270) of Chapter 5.

10 (b) Payment of any taxes, additions to tax, penalties, interest,
11 fees, or other amounts due and payable under Part 7.5
12 (commencing with Section 13201), Part 10 (commencing with
13 Section 17001), Part 11 (commencing with Section 23001), or this
14 part.

15 (c) *Payment of any taxes, additions to tax, penalties, interest,*
16 *fees, or other amounts due and payable under Part 10.1*
17 *(commencing with Section 18201).*

18 (d) Payment of delinquent wages collected pursuant to the
19 Labor Code.

20 ~~(d)~~

21 (e) Payment of delinquencies collected under Section 10878.

22 ~~(e)~~

23 (f) Payment of any amounts due that are referred for collection
24 under Article 5.5 (commencing with Section 19280) of Chapter 5.

25 ~~(f)~~

26 (g) Payment of any amounts that are referred for collection
27 pursuant to Section 62.9 of the Labor Code.

28 ~~(g)~~

29 (h) Payment of delinquent penalties collected for the
30 Department of Industrial Relations pursuant to the Labor Code.

31 ~~(h)~~

32 (i) Payment of delinquent fees collected for the Department of
33 Industrial Relations pursuant to the Labor Code.

34 ~~(i) Payment of delinquencies referred by the Student Aid~~
35 ~~Commission pursuant to Section 16583.5 of the Government~~
36 ~~Code.~~

37 (j) Notwithstanding the payment priority established by this
38 section, voluntary payments made by a taxpayer designated by the
39 taxpayer as payment for a personal income tax liability, shall not
40 be applied pursuant to this priority, but shall instead be applied

1 solely to the personal income tax liability for which the voluntary
2 payment was made.

3 *SEC. 6.* If any provision of this act, or any ordinance that is
4 properly proposed by a local governing body pursuant to this act,
5 is held invalid in a final decision of an appellate court, the
6 remaining provisions of this act shall become inoperative.

7 ~~*SEC. 5.*~~

8 *SEC. 7.* Notwithstanding Section 17610 of the Government
9 Code, if the Commission on State Mandates determines that this
10 act contains costs mandated by the state, reimbursement to local
11 agencies and school districts for those costs shall be made pursuant
12 to Part 7 (commencing with Section 17500) of Division 4 of Title
13 2 of the Government Code. If the statewide cost of the claim for
14 reimbursement does not exceed one million dollars (\$1,000,000),
15 reimbursement shall be made from the State Mandates Claims
16 Fund.

